

REMARKS

This response is to the official action mailed in the above-referenced application on October 19, 2005. In the action the Examiner has rejected new claims 42 and 48 under 35 U.S.C. §112 as failing to comply with the written description requirement. The Examiner further rejects new claims 38-41, 43-47 and 49 under 35 U.S.C. 102(e) as being anticipated by Mackintosh, US 6,349,329, hereinafter Mackintosh. The Examiner further rejects claims 42 and 48 under 35 U.S.C. 103(a) as being obvious over Mackintosh in view of Lowell, US 6,012,086, hereinafter Lowell.

Regarding the rejection of claim 42 and 48 under 35 U.S.C. §112, the applicant refers the Examiner to the as-filed specification, page 20, lines 15-23:

"When a user highlights a selection via highlighter bar 55 and presses instant play button 57, browser 103 will navigate to the URL and display only the audio hyper-links on that page. For example, if only one hyper-link exists on that page, which is most often the case, then browser 103 will automatically activate that link causing connection to an associated broadcast server for download and playing of live broadcast. If two or more hyper-links to audio content exist on one page, then they may be scrolled and activated as previously described, or sampled one at a time for a predetermined amount of time." (underline emphasis is added).

The applicant is confident this teaching, together with other disclosure in the as-filed specification, is sufficient enablement for claims 42 and 48.

In the matter of the rejections on the merits, as there are two independent claims, and all the other claims are dependent on one or the other of the two

independent claims, the applicant focuses on the rejection of claims 38 and 44, and as claim 44 is the method equivalent of claim 38, the arguments are firstly developed relative to the recitation of claim 38, reproduced below:

38. A Web browser application for an Internet-connectable audio-player device, comprising:

a mechanism for invoking a Universal resource Locator (URL) of an accessible site on the Internet; and

functionality for reading embedded code in the site to find a link to downloadable audio content;

wherein the browser determines a link is a link to downloadable audio content by presence of code for initiating an audio player application.

The Examiner relies on various portions of the teaching of Mackintosh to equal the elements of (1) a web browser, (2) a mechanism for invoking a URL, (3) functionality for reading embedded code in a site to find a link to downloadable audio content, and (4) the limitation that the browser determines that a link is a link to downloadable audio content by presence of code for initiating an audio player application.

In the portions of Mackintosh relied upon by the Examiner there is description of a web site *broadcasting* audio content to a user site. There is no specific teaching a web browser application (2) per se. It may be fairly inferred, however, that a web browser is at play, as this is the most common way for a user site to access web content. As to element (2) there is no specific teaching in Mackintosh of a mechanism for invoking a URL. Still, a mechanism for invoking a URL is an essential component of any web browser. Element (3), functionality for reading embedded code in a site, is how web browsers work. The browser contacts a site, the HTML code behind the site is downloaded to the browser application on the users

site, and the browser makes a display according to the HTML program.

The problem with the reference and the Examiner's use of the references teaching is in element (4) of claim 38: the limitation that the browser determines that a link is a link to downloadable audio content by presence of code for initiating an audio player application. There is no teaching anywhere in Mackintosh, or any other reference provided, that a browser discriminates among links to content based on presence of code to initiate an audio player. The key here is that virtually any web site, Internet radio sites included, in the HTML code there will be links to considerable information of various sorts. Some links may be to images (a picture of the station manager), to telephone numbers and addresses (contact us), to descriptions (our mission statement), and to audio content (real-time broadcast audio and/or stored audio files). The browser of the present invention in one important embodiment is only interested in finding those links to audio streams. The browser of the present invention does not respond to other links, or display the content at other links, it responds only to the audio links, and is a way of sorting these audio links from all other content. Mackintosh does not teach this functionality that is claimed and taught in the instant application.

Bases on the above facts and arguments, claim 38 is clearly patentable to the applicant over Mackintosh. Also claim 44, which is the method equivalent of claim 38, is patentable by the same arguments and for the same reasons. Further, claims 39-43, depended directly or indirectly from claim 38, and claims 45-49, depended directly or indirectly from claim 44, are all patentable on their merits, or at least as depended from a patentable claim.

As all of the claims standing have been shown to be clearly patentable over the art cited and applied, the applicant respectfully requests reconsideration, and that the application be passed quickly to issue.

If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,
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